

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**August 22, 2008**

DIVISION ONE

1002629-08

The **Honorable J. GARY HASTINGS**, , Retired Associate Justice of the Court of Appeal, Second Appellate District, Division Four, is hereby assigned to assist the Court of Appeal, Second Appellate District, **Division One**, as a justice thereof, on the following dates:

**September 2, 2008 to October 31, 2008**

and until completion and disposition of all causes and matters pro tempore submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters. This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

August 11, 2008

Ronald M. George  
Chief Justice of California and  
Chairperson of the Judicial Council

B203793      People      (Certified for Publication)  
v.  
Niall Patrick Bergen

The judgment is affirmed.

Neidorf, J. (Assigned)

We concur:   Mallano, P.J.  
                      Rothschild, J.

August 22, 2008 (Continued)

DIVISION TWO

Court convened at 9:00 a.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman,  
Deputy Clerk.

Each of the following:

B203151 People v. Hernandez

B205333 Discover Specialty Ins. v. Certain Underwriters at Lloyds of London

Argument waived, cause submitted.

B204710      Lewis et al.  
                  v.  
                  Daybreak Group Inc.

Merits:

Argued by Lawrence Lewis for respondents. Oral argument previously  
waived by appellant. Cause submitted.

B198577      People  
                  v.  
                  Bradley

Merits:

Argued by Edward Haggerty for appellant and by Deputy Attorney General  
Theresa Patterson for respondent. Cause submitted.

B202407      People  
                  v.  
                  Castro

Merits:

Argued by Adam Axelrad for appellant and by Deputy Attorney General  
David Voet for respondent. Cause submitted.

DIVISION TWO (continued)

B196923     Haroonian  
              v.  
              Haroonian

Merits:  
Argued by Cyrus Haroonian for appellant and no appearance by  
respondent. Cause submitted.

B203731     Duckart  
              v.  
              Duranceau

Merits:  
Argued by Jonathan Greenspan for appellant and no appearance by  
respondent. Cause submitted.

B202631     Albert  
              v.  
              City of Malibu  
              Evans Children's Trust, et al.

Merits:  
Argued by Frank P. Angel for appellant, by Gregory Kovacevich for  
respondents and by Ginetta Giovinco for real party in interest. Cause  
submitted.

Boren, P.J. leaves bench.

B201173     Butler  
              v.  
              Directv Inc.

Merits:  
Argued by David Freedman for appellant and by Lauren Thibodeaux for  
respondent. Cause submitted.

DIVISION TWO (continued)

B205345      Boyer  
v.  
Wells

Merits:

Argued by Elizabeth Bradley for appellant and by Christopher Maile for respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B197580 People (Not for Publication)  
v.  
Mendoza

The judgment is modified to reflect a \$200 suspended parole revocation fine (§ 1202.45). The abstract of judgment is ordered modified to reflect a restitution fine of \$200. (§ 1202.4.) The Clerk of the Superior Court is directed to prepare a corrected abstract of judgment and forward it to the Department of Corrections. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

DIVISION FOUR

B202850      EAD Santa Nella, LLC      (Not for Publication)

v.

City of Los Angeles, et al.

The judgment is affirmed. Respondents shall recover their costs on appeal.

Willhite, Acting P.J.

We concur:    Manella, J.  
                      Suzukawa, J.

B193874      Mouren-Laurens      (Not for Publication)

v.

Insurance Company of the West

The judgment is affirmed. Respondent shall have its costs on appeal.

Epstein, P.J.

We concur:    Willhite, J.  
                      Suzukawa, J.

B200626      People      (Not for Publication)

v.

Escobar

The judgment is affirmed.

Epstein, P.J.

We concur:    Willhite, J.  
                      Suzukawa, J.

DIVISION FOUR (continued)

B201476      Los Angeles County, D.C F.S.      (Not for Publication)

v.

Y.L.

The orders are affirmed.

Epstein, P.J.

We concur:    Willhite, J.  
                     Manella, J.

DIVISION FIVE

B203524      People      (Not for Publication)

v.

Byron B.

The juvenile court is ordered to modify the minute order, dated October 16, 2007, as follows: (1) in condition No. 15, the minute order shall specify that Byron is not to associate with Lamar, Adon, and Earl; (2) in condition No. 26, the minute order shall reflect that the Byron shall participate in counseling only if deemed necessary by the probation officer; (3) in condition No. 17, the minute order must reflect that Byron may not associate with persons he knows were witnesses to the robbery; and (4) in condition No. 28, the service charge under Welfare and Institutions Code section 276, subdivision (c) is stricken. Finally, the maximum period of confinement set forth in the minute order is ordered stricken. In all other respects, the judgment is affirmed.

Kriegler, J.

We concur:    Turner, P.J.  
                     Armstrong, J.

## DIVISION FIVE (continued)

B199924 People (Not for Publication)

V.

Juan Tejada

The judgment is affirmed.

Kriegler, J.

We concur: Turner, P.J.

Mosk, J.

B196321 Issa Chinn (Certified for Publication)

V.

KMR Property Management et al.,

The portion of the judgment denying Chinn’s motion for entitlement to attorney fees as against CPLP is reversed and remanded. In all other respects, the judgment is affirmed. The parties are to bear their own costs on appeal.

Kriegler, J.

We concur: Turner, P.J.

Mosk, J.

B198783 Samuel Kleinman (Not for Publication)

V.

Pnina Nir et al.,

The judgment is affirmed. Costs on appeal are awarded to defendants.

Kriegler, J.

We concur:   Armstrong, Acting P.J.

Mosk, J.

DIVISION FIVE (continued)

B204580      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Tomson T.,

The order is affirmed.

Kriegler, J.

We concur:    Armstrong, Acting P.J.  
Mosk, J.

B202087      Hana Micron, INC.,      (Not for Publication)  
v.  
New Age International, LLC,

The judgment is affirmed. Because defendants did not defend the appeal,  
no costs are awarded.

Mosk, J.

We concur:    Turner, P.J.  
Armstrong, J.

B197227      Patrick Michael Foote      (Not for Publication)  
v.  
State of California, et al.,

The judgment is affirmed. Each party to bear his, her, or its own costs.

Mosk, J.

We concur:    Turner, P.J.  
Kriegler, J.



## DIVISION FIVE (continued)

B199732 People (Not for Publication)

v.  
Delio Xatruch

The judgment of conviction is affirmed. The case is remanded for resentencing in a manner consistent with this opinion.

Mosk, J.

We concur:   Turner, P.J.  
                      Armstrong, J.

B199633      People  
v.  
Adolph Luadenberg

Filed order denying petition for rehearing.

## DIVISION EIGHT

B196779      Angelica Vilchez      (Not for Publication)

v.  
Seville Properties et al.,  
Conservatorship of the Person and Estate of Lucia Gonzalez

The appeal is dismissed as to Ungo's appeal from the judgment. The post-judgment order awarding attorney's fees is affirmed. Each party to bear his or her own costs.

Bigelow, J.

We concur: Cooper, P.J.  
Rubin, J.

August 22, 2008 (Continued)

## DIVISION EIGHT (continued)

B203927 People (Not for Publication)  
B204492

## V. Essie Simpson III

The appeal from the motion to withdraw appellant's guilty plea is dismissed.

Bigelow, J.

We concur: Cooper, P.J.  
Rubin, J.

B197893      Hubner,                                  (Not for Publication)  
v.  
Shapiro et al.

The order dismissing Hubner's petition to vacate the arbitration award is affirmed. Respondents are to recover their costs on appeal.

Rubin, J.

We concur: Cooper, P.J.  
Flier, J.

B205575      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Mark B.

The appeal is dismissed.

Rubin, J.

We concur: Cooper, P.J.  
Flier, J.